



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

999 18TH STREET- SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

DOCKET NO.: CWA-08-2006-0044

IN THE MATTER OF:)	
)	
SEMCRUDE, LP)	
11501 South I-44 Service Road)	FINAL ORDER
Oklahoma City, OK 73173-8315)	
)	
RESPONDENT)	

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

09.25.06

DATE

SIGNED

Elyana R. Sutin
Regional Judicial Officer

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Docket No. **CWA-08-2006-0044**

IN THE MATTER OF:)	
)	
SemCrude, LP)	COMPLAINT AND CONSENT AGREEMENT
11501 South I-44 Service Road)	
Oklahoma City, OK 73173-8315)	
<u>Respondent.</u>)	

Complainant, United States Environmental Protection Agency, Region 8 (“EPA”) or (“Complainant”), and SemCrude, LP (hereinafter “Respondent”) by their undersigned representatives, hereby consent and agree as follows:

A. PRELIMINARY MATTERS

2. This Complaint and Settlement Agreement (“CASA”) is issued to SemCrude, LP (“Respondent”) pursuant to the authority vested in the Administrator of the Environmental Protection Agency (“EPA”) by section 311(b)(6)(B)(i) of the Clean Water Act (“CWA” or “the Act”), 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990.

3. The Administrator has properly delegated this authority to the undersigned EPA officials.

4. This section authorizes EPA to bring an action under section 311(b)(6)(B)(i) of the Act, 33 U.S.C. §1321(b)(6)(B)(i), for civil administrative penalties against Respondent who has violated, or is in violation of, a requirement or prohibition of the CWA or its implementing regulations.

5. This proceeding is governed by the Consolidated Rules of Practice Governing the

Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (“Consolidated Rules”) set forth at 40 CFR part 22.

6. This CASA is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 CFR §22.13(b), and executed pursuant to 40 CFR §22.18(b)(2) and (3) of the Consolidated Rules of Practice.

7. Respondent admits the jurisdictional allegations contained herein and neither admits nor denies the specific factual allegations contained herein.

8. Respondent waives its rights to a hearing before any tribunal, to contest any issue of law or fact set forth in this CASA.

9. Complainant asserts that settlement of this matter is in the public interest, and Complainant and Respondent agree that entry of this CASA and Final Order without further litigation and without adjudication of any issue of fact or law, is the most appropriate means of resolving this matter.

10. This CASA, upon incorporation into a Final Order, applies to and is binding upon EPA and upon Respondent, and Respondent’s officers, directors, employees, agents, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent’s responsibilities under this agreement.

11. This CASA contains all terms of the settlement agreed to by the parties.

B. ALLEGED VIOLATION

12. Respondent, SemCrude is a limited partnership, organized under the laws of Delaware and authorized to do business in the State of Colorado.
13. Respondent is a “person(s)” within the meaning of section 311(a)(7) of the Act, 33 U.S.C. §1321(a)(7) and 40 CFR §112.2.
14. Respondent is the owner and/or operator of the tanker truck (an onshore facility within the meaning of section 311(a)(6) and (10) of the Act, 33 U.S.C. §1321(a)(6) and (10), and 40 CFR §112.2, hereinafter, “the facility”) that was involved in a single-vehicle traffic accident that occurred on Highway 139, mile marker 65, approximately 8 miles south of Rangely, Colorado.
15. Section 311(b)(3) of the Act prohibits the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States.
16. For purposes of sections 311(b)(3) and (b)(4) of the Act, 33 U.S.C. §1321(b)(3) and (b)(4), discharges of oil into or upon the navigable waters or adjoining shorelines of the United States, in such quantities that have been determined may be harmful to the public health or welfare or the environment of the United States are defined in 40 CFR §110.3 to include discharges of oil that violate applicable water quality standards or cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.
17. On August 21, 2005, Respondent’s tanker truck discharged approximately 100 barrels of crude oil as defined in section 311(a)(1) of the Act, 33 U.S.C. §1321(a)(1), and 40 CFR §110.1, from its facility into or upon an intermittent stream which is locally known as the Big Horse

Draw, a tributary to Douglas Creek, and into Douglas Creek and its adjoining shorelines.

18. Douglas Creek is a navigable water of the United States as defined in section 502(7) of the Act, 33 U.S.C. §1362(7), and 40 CFR §110.1.

19. Respondent's discharge of approximately 100 barrels of crude oil from its facility caused a film or sheen upon or discoloration of the surface of Douglas Creek and its adjoining shorelines and caused a sludge or emulsion to be deposited upon the adjoining shorelines, and therefore, was in a quantity that has been determined may be harmful under 40 CFR §110.3, in violation of section 311(b)(3) of the Act, 33 U.S.C. §1321(b)(3).

C. CIVIL PENALTY

20. As alleged in the preceding Paragraphs, and pursuant to section 311(b)(6)(B)(i) of the Act, 33 U.S.C. §1321(b)(6)(B)(i), and 40 CFR §19.4, the Respondents are liable for civil penalties of up to \$11,000 per day for each day during which the violation continues, up to a maximum total of \$37,500 for all violations.

20. Respondent, by signing this CASA, herein certifies to EPA that Respondent is now in compliance with each of the relevant provisions of the CWA that formed the basis of the Complaint.

21. Based on the foregoing Allegations and pursuant to the authority of section 311(b)(6)(B)(i) of the Act, 33 U.S.C. §1321(b)(6)(B)(ii), and 40 CFR § 19.4, Complainant proposes the assessment of administrative penalties against the Respondent in the amount of twenty nine thousand nine hundred dollars (\$29,900).

22. Complainant proposes this penalty amount after considering the applicable statutory

penalty factors in section 311(b)(8) of the Act, 33 U.S.C. §1321(b)(8): the seriousness of the violation, the economic benefit to the violator, if any, resulting from the violation, the degree of culpability involved, any other penalty for the same incident, any history of prior violations, the nature, extent, and degree of success of any efforts of the violator to minimize or mitigate the effects of the discharge, the economic impact of the penalty on the violator, and any other matters as justice may require.

23. Respondent consents to the issuance of a Consent Order and consents for the purposes of settlement to the payment of the civil penalty in the amount of twenty nine thousand nine hundred dollars (\$29,900).

24. Respondent consents and agrees to pay a civil penalty in the amount of twenty nine

thousand nine hundred dollars (\$29,900), in the manner described below in this paragraph:

a. **Payment is due within 30 calendar days from the date written on the Final Consent Order**, issued by the Regional Judicial Officer, that adopts this Consent Agreement. If the due date falls on a weekend or legal federal holiday, then the due date becomes the next business day. The date the payment is made is considered to be the date processed by the Bank described below. Payments received by 11:00 AM. EST are processed on the same day, those received after 11:00 AM are processed on the next business day.

b. The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case, referencing "Oil Spill Liability Trust Fund-311," for the amount, **payable to the "Environmental Protection Agency,"** to:

US checks by regular US postal service mail

U.S. Environmental Protection Agency
P.O. Box 371099M
Pittsburgh, PA 15251

Federal Express, Airborne, or other commercial carrier:

Mellon Client Service Center
ATTN: Shift Supervisor
Lockbox 371099M Account 9109125
500 Ross Street
Pittsburgh, PA 15251-0001

Wire Transfers

Mellon Bank
ABA 043000261
Account 9109125
22 Morrow Drive
Pittsburgh PA 15235

A copy of the check shall be sent simultaneously to:

Donna K. Inman
Technical Enforcement Program (8ENF-T)
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

c. In the event payment is not received by the specified due date, interest accrues from the date of the final consent order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received. (I.e., on the 1st late day, 30 days of interest accrues).

d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31st day from the date of the final consent order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121st day from the date the final consent order is signed). Payments are first

applied to outstanding handling charges, 6% penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.

e. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

D. TERMS AND CONDITIONS

25. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of the consent agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

26. Nothing in this Consent Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this consent Agreement.

27. Each undersigned representative of the parties to this CASA certifies that he or she is fully authorized by the party represented to bind the parties to the terms and conditions of this CASA and to execute and legally bind that party to this CASA.

28. The parties agree to submit this CASA to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.

29. This CASA, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final settlement of the violations alleged in this CASA.

30. Each party shall bear its own costs and attorneys fees in connection with all issues associated with this CASA.

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8, Office of Enforcement, Compliance
and Environmental Justice, Complainant.**

Date: 9/21/06

-

By: SIGNED TIM OSAG for/
Elisabeth Evans
Director
Technical Enforcement Program

In The Matter Of: SemCrude, LP
(Continued)

Date: 9/21/06

By: SIGNED

Michael T. Risner, Director
David Janik, Supervisor
Legal Enforcement Program

Date: 9/22/06

By: SIGNED

Brenda L. Morris, Attorney
Legal Enforcement Program

**SEMCRUDE,LP,
Respondent.**

Date: 9/20/06

By: SIGNED

(Signature of Authorized Agent)

Peter L. Schwiering

Type or print name of signatory

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMPLAINT/CONSENT AGREEMENT/FINAL ORDER** in the matter **SEMCRUDE, LP., DOCKET NO.: CWA-08-2006-0044** was filed with the Regional Hearing Clerk on September 26, 2006

Further, the undersigned certifies that a true and correct copy of the document was delivered to Brenda Morris, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on September 26, 2006 to:

Mr. Glenn Collum
Semcrude, LP
11501 South I-44 Service Road
Oklahoma City, OK 73173-8315

Regular Mail to:

U. S. Coast Guard
Commander
Finance Center (OGR)
U. S. Coast Guard
1430 A Kristina Way
Chesapeake, VA 23326

Telefaxed to:

U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268
513-487-2063

September 26, 2006

SIGNED _____
Tina Artemis
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE
ON SEPTEMBER 26, 2006.**